

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SJR 1746

INTRODUCER: Finance and Tax Committee and Senator Brodeur

SUBJECT: Homestead Property Tax Exemption

DATE: February 10, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 1746 proposes an amendment to the Florida Constitution to authorize the Legislature to provide, through general law, for all levies other than school district levies, an additional homestead exemption on the value greater than \$100,000 and up to \$150,000 for a classroom teacher, law enforcement officer, correctional officer, firefighter, child welfare services professional, active duty member of the United States Armed Forces, or a member of the Florida National Guard. Property maintained as a homestead by the owner for a person legally or naturally dependent upon the owner is eligible for the exemption.

The Revenue Estimating Conference (REC) has not analyzed the committee substitute; however, staff does not expect the committee substitute to change the estimate provided for the prior version of the joint resolution. The REC determined that the prior version of the joint resolution does not have a fiscal impact. However, if the joint resolution is approved, and linked SB 1748 becomes law, the bill will reduce local property tax revenue for all levies other than school district levies by \$83.8 million beginning in Fiscal Year 2023-2024.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2022.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2023.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the assessed or “just value”² of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes; land used for conservation purposes; historic properties when authorized by the county or municipality; and certain working waterfront property.⁷

Property Tax Exemptions for Homestead Property

Homestead Exemption

Every person having legal or equitable title to real estate and who maintains thereon his or her permanent residence or the permanent residence of a dependent (homestead property) is eligible for a homestead tax exemption of up to \$25,000. The exemption applies to all ad valorem taxes levied, including levies by school districts.⁸ An additional homestead exemption of up to \$25,000 applies to the property’s value between \$50,000 and \$75,000.⁹ Unlike the first \$25,000, the additional \$25,000 exemption does not apply to ad valorem taxes levied by school districts.

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4.

⁸ FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

⁹ Section 196.031(1)(b), F.S.

Additional Homestead Exemptions for Certain Persons

The Florida Constitution authorizes the Legislature to provide additional property tax exemptions for the following persons who maintain property as a homestead:

- Counties and municipalities may grant exemptions to persons aged 65 years or over whose household income does not exceed \$20,000 (low-income seniors).¹⁰
- A veteran or first responder¹¹ with a total and permanent service-connected disability is entitled to a complete exemption for the property.¹²
- A veteran with a total service-connected disability that confines him or her to a wheelchair is entitled to a complete exemption for the property. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.¹³
- A veteran disabled to a degree of 10 percent or more by misfortune or during wartime service is entitled to an exemption for any property up to \$5,000. Upon the death of the veteran, the exemption carries over to the veteran's unremarried surviving spouse.¹⁴
- The unremarried surviving spouse of a veteran or first responder who died while on active duty is entitled to a complete exemption for the property if the veteran was a permanent resident of Florida on the day he or she died.¹⁵

Tax Discount on Homestead Property for a Combat-disabled Veteran

In addition to the property tax exemptions described above, certain combat-disabled veterans are entitled to a discount on their homestead property taxes.¹⁶ The discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.¹⁷ The discount is applied as a reduction to the taxable value of the homestead property.¹⁸

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution to authorize the Legislature to provide, through general law, for all levies other than school district levies, an additional homestead exemption on the value greater than \$100,000 and up to \$150,000. Persons eligible for the exemption include classroom teachers, law enforcement officers, correctional officers, firefighters, child welfare services professionals, active duty members of the United States Armed Forces, members of the Florida National Guard, or a person legally or naturally dependent upon the owner.

¹⁰ FLA. CONST. Art. VII, s. 6(d)(1) and (2). The income level is adjusted each year according to changes in the consumer price index. For 2022, persons will qualify if the household income does not surpass \$32,561. Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at: <https://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf> (last visited Feb. 5, 2022).

¹¹ "First responder" in this context means a law enforcement officer or correctional officer as defined in s. 943.10, F.S., a firefighter as defined in s. 633.102, F.S., or an emergency medical technician or paramedic as defined in s. 401.23, F.S., who is a full-time paid employee, part-time paid employee, or unpaid volunteer. Section 196.081(6)(c)1., F.S.

¹² Sections 196.081 and 196.102, F.S.

¹³ Section 196.091(1) and (3), F.S.

¹⁴ Section 196.24, F.S.

¹⁵ Section 196.081(4) and (6) F.S.

¹⁶ Section 196.082, F.S.

¹⁷ Section 196.082(2), F.S.

¹⁸ Section 196.082(5), F.S.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2022.

If approved by at least 60 percent of the electors, the proposed amendment will take effect January 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18 of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article XI, s. 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, s. 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election¹⁹ held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Constitutional amendments submitted to the electors must be printed in clear and unambiguous language on the ballot.²⁰

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

Article XI, s. 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes

¹⁹ Section 97.021(16), F.S., defines "general election" as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

²⁰ Section 101.161(1), F.S.

effective on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has not analyzed the committee substitute; however, staff does not expect the committee substitute to change the estimate provided for the prior version of the joint resolution. The REC determined that the prior version of the joint resolution does not have a fiscal impact. However, if the joint resolution is approved, and linked SB 1748 becomes law, the bill will reduce local property tax revenue for all levies other than school district levies by \$83.8 million beginning in Fiscal Year 2023-2024.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published in the 10th week and again in the 6th week immediately preceding the week the election is held.

The Division of Elections (division) within the Department of State pays for publication costs to advertise all constitutional amendments in both English and Spanish,²¹ typically paid from non-recurring General Revenue funds.²² Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from newspapers.

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement. Beginning in 2020, the summary of such financial information statements was also included as part of the booklets.²³

²¹ Pursuant to *Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503)*.

²² *See Ch. 2020-111, Specific Appropriation 3132, Laws of Fla.*

²³ *Section 100.371(13)(e)4., F.S. See also Chapter 2019-64, s. 3, Laws of Fla.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This resolution substantially amends section 4, Article VII of the Florida Constitution.

This resolution also creates a new section in Article XII of the Florida Constitution.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on February 10, 2022:

The CS limits the exemption to all levies other than school district levies and allows the exemption to apply to property maintained as a permanent residence for a person legally or naturally dependent upon the owner.

- B. **Amendments:**

None.